

CHAPTER 77—ACCESS TO INFORMATION FOR DEBT COLLECTION

Sec.
7701. Taxpayer identifying number.

AMENDMENTS

1996—Pub. L. 104-134, title III, § 31001(i)(3)(A), Apr. 26, 1996, 110 Stat. 1321-365, which directed that the chapter title to chapter 77 of subtitle VI of this title be amended by substituting “ACCESS TO INFORMATION FOR DEBT COLLECTION” for “LOAN REQUIREMENTS”, was executed by making the substitution in the chapter title of chapter 77 of subtitle V of this title, to reflect the probable intent of Congress.

§ 7701. Taxpayer identifying number

(a) In this section—

(1) “included Federal loan program” has the same meaning given that term in section 6103(l)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(3)(C)).

(2) “taxpayer identifying number” means the identifying number required under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).

(b) The head of an agency administering an included Federal loan program shall require a person applying for a loan under the program to provide that person’s taxpayer identifying number.

(c)(1) The head of each Federal agency shall require each person doing business with that agency to furnish to that agency such person’s taxpayer identifying number.

(2) For purposes of this subsection, a person shall be considered to be doing business with a Federal agency if the person is—

(A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;

(B) an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;

(C) a contractor of the agency;

(D) assessed a fine, fee, royalty or penalty by the agency; and

(E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.

(3) Each agency shall disclose to a person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person’s relationship with the Government.

(4) For purposes of this subsection, a person shall not be treated as doing business with a Federal agency solely by reason of being a debtor or under third party claims of the United States. The preceding sentence shall not apply to a debtor owing claims resulting from petroleum pricing violations or owing claims resulting from Federal loan or loan guarantee/insurance programs.

(d) Notwithstanding section 552a(b) of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may

match their debtor records with Department of Health and Human Services, and Department of Labor records to obtain names (including names of employees), name controls, names of employers, taxpayer identifying numbers, addresses (including addresses of employers), and dates of birth. The preceding sentence shall apply to the disclosure of taxpayer identifying numbers only if such disclosure is not otherwise prohibited by section 6103 of the Internal Revenue Code of 1986. The Department of Health and Human Services, and the Department of Labor shall release that information to creditor agencies and may charge reasonable fees sufficient to pay the costs associated with that release.

(Added Pub. L. 103-272, § 4(f)(1)(Y)(i), July 5, 1994, 108 Stat. 1363; amended Pub. L. 104-134, title III, § 31001(i)(1), Apr. 26, 1996, 110 Stat. 1321-364.)

REFERENCES IN TEXT

Section 6103 of the Internal Revenue Code of 1986, referred to in subsecs. (a)(1) and (d), is classified to section 6103 of Title 26, Internal Revenue Code.

AMENDMENTS

1996—Subsecs. (c), (d). Pub. L. 104-134 added subsecs. (c) and (d).

SUBTITLE VI—MISCELLANEOUS

Chap.		Sec.
91.	Government Corporations	9101
93.	Sureties and Surety Bonds	9301
95.	Government Pension Plan Protection	9501
97.	Miscellaneous	9701

AMENDMENTS

1996—Pub. L. 104-134, title III, § 31001(i)(3)(B), Apr. 26, 1996, 110 Stat. 1321-365, which directed that the table of chapters for subtitle VI of this title be amended by inserting a new item for chapter 77 “Access to information for debt collection” before the item for chapter 91, was executed to the table of chapters for subtitle V of this title by substituting “Access to information for debt collection” for “Loan Requirements” in item for chapter 77, to reflect the probable intent of Congress.

CHAPTER 91—GOVERNMENT CORPORATIONS

Sec.	
9101.	Definitions.
9102.	Establishing and acquiring corporations.
9103.	Budgets of wholly owned Government corporations.
9104.	Congressional action on budgets of wholly owned Government corporations.
9105.	Audits.
9106.	Management reports.
9107.	Accounts.
9108.	Obligations.
9109.	Exclusion of a wholly owned Government corporation from this chapter.
9110.	Standards for depository institutions holding securities of a Government-sponsored corporation for customers.

AMENDMENTS

1990—Pub. L. 101-576, title III, § 306(b), Nov. 15, 1990, 104 Stat. 2854, substituted “Management” for “Audit”.
1986—Pub. L. 99-571, title II, § 201(b)(2), Oct. 28, 1986, 100 Stat. 3224, added item 9110.

§ 9101. Definitions

In this chapter—

(1) “Government corporation” means a mixed-ownership Government corporation and a wholly owned Government corporation.

(2) “mixed-ownership Government corporation” means—

(A) the Central Bank for Cooperatives.

(B) the Federal Deposit Insurance Corporation.

(C) the Federal Home Loan Banks.

(D) the Federal Intermediate Credit Banks.

(E) the Federal Land Banks.

(F) the National Credit Union Administration Central Liquidity Facility.

(G) the Regional Banks for Cooperatives.

(H) the Rural Telephone Bank when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

(I) the Financing Corporation.

(J) the Resolution Trust Corporation.

(K) the Resolution Funding Corporation.

(3) “wholly owned Government corporation” means—

(A) the Commodity Credit Corporation.

(B) the Community Development Financial Institutions Fund.

(C) the Export-Import Bank of the United States.

(D) the Federal Crop Insurance Corporation.

(E) Federal Prison Industries, Incorporated.

(F) the Corporation for National and Community Service.

(G) the Government National Mortgage Association.

(H) the Overseas Private Investment Corporation.

(I) the Pennsylvania Avenue Development Corporation.

(J) the Pension Benefit Guaranty Corporation.

(K) the Rural Telephone Bank until the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

(L) the Saint Lawrence Seaway Development Corporation.

(M) the Secretary of Housing and Urban Development when carrying out duties and powers related to the Federal Housing Administration Fund.

(N) the Tennessee Valley Authority.

[(O) Repealed. Pub. L. 104-134, title III, § 3117(a), Apr. 26, 1996, 110 Stat. 1321-350.]

(P) the Panama Canal Commission.

(Q) the Millennium Challenge Corporation.

(Pub. L. 97-258, §§ 1, 2(l)(1), Sept. 13, 1982, 96 Stat. 1041, 1062; Pub. L. 97-452, § 1(26), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 100-86, title III, § 303, Aug. 10, 1987, 101 Stat. 597; Pub. L. 101-73, title III, § 307(e), title V, §§ 501(d), 511(b)(1), Aug. 9, 1989, 103 Stat. 353, 394, 406; Pub. L. 102-486, title IX, § 902(b), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 103-82, title II, § 202(e)(1), Sept. 21, 1993, 107 Stat. 888; Pub. L. 103-272, § 4(f)(1)(Z), July 5, 1994, 108 Stat. 1363; Pub. L. 103-325, title I, § 104(e), Sept.

23, 1994, 108 Stat. 2168; Pub. L. 104-106, div. C, title XXXV, § 3530, Feb. 10, 1996, 110 Stat. 642; Pub. L. 104-127, title VII, § 722(b), Apr. 4, 1996, 110 Stat. 1115; Pub. L. 104-134, title III, § 3117(a), Apr. 26, 1996, 110 Stat. 1321-350; Pub. L. 104-287, § 4(2), Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105-134, title IV, § 415(d)(2), Dec. 2, 1997, 111 Stat. 2590; Pub. L. 107-171, title VI, § 6201(d)(6), May 13, 2002, 116 Stat. 419; Pub. L. 108-199, div. D, title VI, § 614(e)(2), Jan. 23, 2004, 118 Stat. 223.)

HISTORICAL AND REVISION NOTES 1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9101(1)	(no source).	Dec. 6, 1945, ch. 557, § 201, 59 Stat. 600; July 26, 1956, ch. 741, § 201(a)(2), (3), 70 Stat. 667; Oct. 30, 1970, Pub. L. 91-518, § 804, 84 Stat. 1340; May 7, 1971, Pub. L. 92-12, § 4, 85 Stat. 37; Jan. 2, 1974, Pub. L. 93-236, §§ 202(g)(1), 301(f) (last sentence), 87 Stat. 992, 1005; Feb. 5, 1976, Pub. L. 94-210, § 612(b), 90 Stat. 108; Aug. 20, 1978, Pub. L. 95-351, § 301(a), 92 Stat. 513; Nov. 10, 1978, Pub. L. 95-630, § 1805, 92 Stat. 3724; Aug. 13, 1981, Pub. L. 97-35, § 396(h)(1), 95 Stat. 440.
9101(2)	31:856.	
9101(3)	31:846.	Dec. 6, 1945, ch. 577, § 101, 59 Stat. 597; Aug. 10, 1948, ch. 832, § 501(b) (less proviso), 62 Stat. 1283; June 30, 1949, ch. 285, § 13, 63 Stat. 356; May 13, 1954, ch. 201, § 6, 68 Stat. 95; July 26, 1956, ch. 741, § 201(a)(1), 70 Stat. 667; June 30, 1958, Pub. L. 85-477, § 502(c), 72 Stat. 272; Oct. 4, 1961, Pub. L. 87-353, § 3(u), 75 Stat. 774; May 25, 1967, Pub. L. 90-19, § 4, 81 Stat. 20; Aug. 1, 1968, Pub. L. 90-448, §§ 807(e), 1719(d), 82 Stat. 544, 610; Dec. 30, 1969, Pub. L. 91-175, § 501, 83 Stat. 825; Oct. 27, 1972, Pub. L. 92-578, § 15, 86 Stat. 1274; Sept. 2, 1974, Pub. L. 93-406, § 4002(g)(3), 88 Stat. 1005.

Clause (1) is included because a number of the provisions of the chapter apply to mixed-ownership and wholly owned Government corporations, and the term “Government corporation” provides a simple phrase to refer to both of those kinds of corporations.

In clause (2)(A), “Amtrak” is substituted for “National Railroad Passenger Corporation” to conform to section 103(1) of the Rail Passenger Service Act (45 U.S.C. 502(1)).

In clause (2)(I), the words “when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a))” are added because of 7:943(c) and 950(a).

In clause (3), the words “Regional Agricultural Credit Corporations” are omitted because the corporations were merged with and liquidated by the Regional Agricultural Credit Corporation of Washington, D.C., which was dissolved on April 16, 1949. The words “Farmers Home Corporation” are omitted because the corporation never was activated. The words “Federal Surplus Commodities Corporation” are omitted because the corporation and the Division of Marketing and Marketing Agreements were consolidated into the Surplus Marketing Administration, which was merged into the Agricultural Marketing Administration, which was dissolved on March 14, 1947. The words “Reconstruction Finance Corporation” are omitted because the corporation was abolished on June 30, 1957. The words “Defense Plant Corporation; Defense Supplies Corporation; Metals Reserve Company; Rubber Reserve Company” are omitted because the corporations and companies were dissolved on July 1, 1945. The words “War Damage Cor-

poration" are omitted because the corporation was terminated on January 22, 1947. The words "the RFC Mortgage Company" are omitted because the company was transferred to the Reconstruction Finance Corporation, which was abolished on June 30, 1957. The words "Disaster Loan Corporation" are omitted because the corporation was dissolved on July 1, 1945. The words "Inland Waterways Corporation" are omitted because the corporation was liquidated on July 19, 1963. The words "Warrior River Terminal Company" are omitted because the company was transferred to the Inland Waterways Corporation, which was liquidated on July 13, 1963. The words "Virgin Islands Corporation" are omitted because the corporation was dissolved on July 1, 1966. The words "United States Spruce Production Corporation" are omitted because the corporation was dissolved on December 12, 1946. The words "Institute of Inter-American Affairs" are omitted because the institute was transferred to the Foreign Operations Administration, which was abolished on May 9, 1955. The words "Institute of Inter-American Transportation" are omitted because the institute was dissolved August 24, 1949. The words "Inter-American Educational Foundation, Incorporated" are omitted because the foundation was succeeded by the Institute of Inter-American Affairs, which was transferred to the Foreign Operations Administration, which was abolished on May 9, 1955. The words "Inter-American Navigation Corporation" are omitted because the corporation was dissolved on February 25, 1947. The words "Preninradio, Incorporated" are omitted because Preninradio, Incorporated was dissolved May 10, 1949. The words "Cargoes, Incorporated" are omitted because Cargoes, Incorporated was dissolved April 30, 1945. The words "Export-Import Bank of the United States" are substituted for "Export-Import Bank of Washington" because of section 1(a) of the Act of March 13, 1968 (Pub. L. 90-267, 82 Stat. 47). The words "Petroleum Reserves Corporation" are omitted because the corporation was transferred to the Office of Economic Warfare, which was consolidated into the Foreign Economic Administration, which was transferred to the Reconstruction Finance Corporation and changed to the War Assets Corporation. The War Assets Corporation was dissolved as soon as practicable after March 25, 1946. The words "Rubber Development Corporation" are omitted because the certificate of incorporation expired on June 30, 1947. The words "U. S. Commercial Company" are omitted because the company was liquidated after June 30, 1948. The words "Smaller War Plants Corporation" are omitted because the corporation was abolished on June 30, 1947. The words "Defense Homes Corporation" are omitted because the corporation was liquidated on June 30, 1948. The words "Home Owners' Loan Corporation" are omitted because the corporation was dissolved on February 3, 1954. The words "United States Housing Corporation" are omitted because the corporation was terminated on September 8, 1952. The words "Panama Railroad Company" (subsequently changed to "Panama Canal Company" by section 2(a)(2) of the Act of September 26, 1950 (ch. 1049, 64 Stat. 1038)), are omitted because of 22:ch. 51. The words "Tennessee Valley Associated Cooperatives, Incorporated" are omitted because the corporation was dissolved on January 18, 1950.

In clause (3)(J), the words "until the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a))" are added because of 7:943(c) and 950(a). Clause (L) is substituted for the "Federal Housing Administration" because of section 5 of the Department of Housing and Urban Development Act (Pub. L. 89-174, 79 Stat. 669).

1983 ACT

This amends 31:9101(2) because the National Consumer Cooperative Bank is no longer a mixed-ownership Government corporation. Section 396(h)(1) and (i) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 440) provided that the Bank would cease being a mixed-ownership Government corpora-

tion on the day after the Final Government Equity Redemption Date. Section 501(36) of the Act of December 23, 1981 (Pub. L. 97-101, 95 Stat. 1440), provided that the Redemption Date was December 31, 1981.

AMENDMENTS

2004—Par. (3)(Q). Pub. L. 108-199 added subpar. (Q).

2002—Par. (3)(Q). Pub. L. 107-171 struck out subpar. (Q) which read: "the Alternative Agricultural Research and Commercialization Corporation."

1997—Par. (2). Pub. L. 105-134 redesignated subpars. (B) to (L) as (A) to (K), respectively, and struck out former subpar. (A) which read: "Amtrak."

1996—Par. (2)(J) to (M). Pub. L. 104-287, §4(2)(A), (B), redesignated subpars. (K) to (M) as (J) to (L), respectively, and struck out former subpar. (J), which read: "the United States Railway Association".

Par. (3)(B). Pub. L. 104-287, §4(2)(C), substituted a period for the semicolon at end.

Par. (3)(N). Pub. L. 104-127, §722(b)(1), and Pub. L. 104-287, §4(2)(D), amended par. (3) identically, redesignating subpar. (N), relating to Uranium Enrichment Corporation, as (O).

Par. (3)(O). Pub. L. 104-134, which directed the amendment of par. (3) of this section by striking out subpar. (N) as added by section 902(b) of Pub. L. 102-486, was executed by striking out subpar. (O), to reflect the probable intent of Congress, because of the redesignation of that subpar. (N) as (O) by section 722(b)(1) of Pub. L. 104-127 and section 4(2)(D) of Pub. L. 104-287. Subpar. (O) read as follows: "the Uranium Enrichment Corporation."

Pub. L. 104-127, §722(b)(1), and Pub. L. 104-287, §4(2)(D), amended par. (3) identically, redesignating subpar. (N), relating to Uranium Enrichment Corporation, as (O).

Par. (3)(P). Pub. L. 104-106 added subpar. (P).

Par. (3)(Q). Pub. L. 104-127, §722(b)(2), added subpar. (Q).

1994—Par. (2)(K). Pub. L. 103-272 substituted "the" for "The".

Par. (3)(B) to (N). Pub. L. 103-325 added subpar. (B) and redesignated former subpars. (B) to (M) as (C) to (N), respectively.

1993—Par. (3)(E). Pub. L. 103-82 added subpar. (E).

1992—Par. (3)(N). Pub. L. 102-486 added subpar. (N) relating to the Uranium Enrichment Corporation.

1989—Par. (2)(L). Pub. L. 101-73, §501(d), added subpar. (L).

Par. (2)(M). Pub. L. 101-73, §511(b)(1), added subpar. (M).

Par. (3)(E). Pub. L. 101-73, §307(e), struck out subpar. (E) relating to Federal Savings and Loan Insurance Corporation.

1987—Par. (2)(K). Pub. L. 100-86 added subpar. (K).

1983—Par. (2)(K). Pub. L. 97-452 struck out subpar. (K) which had already been struck out by Pub. L. 97-258. See 1982 Amendment note below.

1982—Par. (2)(K). Pub. L. 97-258, §2(l)(1), struck out subpar. (K) relating to National Consumer Cooperative Bank.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 3117(a) of Pub. L. 104-134 provided that the amendment made by that section was to take effect as of the privatization date [July 28, 1998]. For definition of that term, see section 2297h(9) of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 202(i) of Pub. L. 103-82, set out as an Effective Date note under section 12651 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment effective Sept. 13, 1982, see section 2(i) of Pub. L. 97-452, set out as a note under section 3331 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 2(l) of Pub. L. 97-258 provided that the amendment made by that section is effective Jan. 1, 1982.

DISSOLUTION OF PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Pennsylvania Avenue Development Corporation dissolved on or before Apr. 1, 1996, and assets, obligations, indebtedness, and unobligated and unexpended balances of Corporation transferred, see Pub. L. 92-578, §3, Oct. 27, 1972, 86 Stat. 1267, as amended, which was classified to section 872 of former Title 40, Public Buildings, Property, and Works, prior to repeal by Pub. L. 107-217, §6(b), Aug. 21, 2002, 116 Stat. 1304.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS

The United States Railway Association was abolished effective Apr. 1, 1987, with all powers, duties, rights, and obligations of Association relating to Consolidated Rail Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) transferred to Secretary of Transportation on Jan. 1, 1987, and any securities of Corporation held by Association transferred to Secretary of Transportation on Oct. 21, 1986, see section 1341 of Title 45, Railroads.

COMPENSATION PRACTICES OF GOVERNMENT CORPORATIONS

For provisions relating to certain bonuses paid by mixed-ownership and wholly owned corporations listed in pars. (2) and (3) of this section, see Ex. Ord. No. 12976, Oct. 5, 1995, 60 F.R. 52829, set out as a note under section 4501 of Title 5, Government Organization and Employees.

§ 9102. Establishing and acquiring corporations

An agency may establish or acquire a corporation to act as an agency only by or under a law of the United States specifically authorizing the action.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1042.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9102	31:869(a).	Dec. 6, 1945, ch. 557, §304(a), 59 Stat. 602.

The word “agency” is substituted for “officer or agency of the Federal Government or by any Government corporation” and “agency or instrumentality of the United States” because of section 101 of the revised title, for consistency, and because a Government corporation is an “instrumentality of the United States Government”. The word “establish” is substituted for “created, organized” to eliminate unnecessary words. The words “on or after December 6, 1945” are omitted as executed. The words “law of the United States” are substituted for “Act of Congress” for consistency.

§ 9103. Budgets of wholly owned Government corporations

(a) Each wholly owned Government corporation shall prepare and submit each year to the President a business-type budget in a way, and before a date, the President prescribes by regulation for the budget program.

(b) The budget program for each wholly owned Government corporation shall—

(1) contain estimates of the financial condition and operations of the corporation for the current and following fiscal years and the condition and results of operations in the last fiscal year;

(2) contain statements of financial condition, income and expense, and sources and use of money, an analysis of surplus or deficit, and additional statements and information to make known the financial condition and operations of the corporation, including estimates of operations by major activities, administrative expenses, borrowings, the amount of United States Government capital that will be returned to the Treasury during the fiscal year, and appropriations needed to restore capital impairments; and

(3) provide for emergencies and contingencies and otherwise be flexible so that the corporation may carry out its activities.

(c) The President shall submit the budget programs submitted by wholly owned Government corporations (as changed by the President) as part of the budget submitted to Congress under section 1105 of this title. The President thereafter may submit changes in a budget program of a corporation at any time.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1042.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9103(a)	31:847(1st sentence).	Dec. 6, 1945, ch. 557, §102, 59 Stat. 598; Sept. 12, 1950, ch. 946, §105, 64 Stat. 834.
9103(b)	31:847(2d-last sentences).	
9103(c)	31:848.	Dec. 6, 1945, ch. 557, §103, 59 Stat. 598.

In subsection (a), the word “President” is substituted for “Office of Management and Budget” because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words “in a way, and before a date, the President prescribes by regulation for the budget program” are substituted for “under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented” to eliminate unnecessary words.

In subsection (b), before clause (1), the words “budget program” are substituted for “budget program shall be a business-type budget, or plan of operation” for consistency and to eliminate unnecessary words. In clause (1), the words “actual” and “completed” are omitted as surplus. In clause (2), the words “as are necessary or desirable”, “types of”, “together with”, and “funds” are omitted as surplus. In clause (3), the words “as authorized by law” are omitted as surplus.

In subsection (c), the words “as changed” are substituted for “as modified, amended, or revised” to eliminate unnecessary words. The word “submit” is substituted for “transmitted” for consistency. The word “annual” is omitted as surplus. The word “thereafter” is added for clarity. The text of 31:848 (last par.) is omitted as unnecessary.

§ 9104. Congressional action on budgets of wholly owned Government corporations

(a) Congress shall—

(1) consider budget programs for wholly owned Government corporations the President submits;

(2) make necessary appropriations authorized by law;

(3) make corporate financial resources available for operating and administrative expenses; and

(4) provide for repaying capital and the payment of dividends.

(b) This section does not—

(1) prevent a wholly owned Government corporation from carrying out or financing its activities as authorized under another law;

(2) affect section 26 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831y); or

(3) affect the authority of a wholly owned Government corporation to make a commitment without fiscal year limitation.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1043.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9104(a)	31:849(1st sentence).	Dec. 6, 1945, ch. 557, §104, 59 Stat. 598; restated July 30, 1947, ch. 358, §307, 61 Stat. 584.
9104(b)	31:849(2d, last sentences).	

In subsection (a), the words “budget programs for wholly owned Government corporations” are substituted for “Budget programs” for clarity and consistency. The words “legislation . . . be enacted”, “as may be”, “for expenditure”, “corporate funds or other”, “or limiting the use thereof”, “as the Congress may determine”, and “funds” are omitted as surplus.

In subsection (b), the word “existing” is omitted as surplus. In clause (1), the word “another” is added for clarity. In clause (3), the words “contracts or other” and “reference to” are omitted as surplus.

§ 9105. Audits

(a)(1) The financial statements of Government corporations shall be audited by the Inspector General of the corporation appointed under the Inspector General Act of 1978 (5 U.S.C. App.), or under other Federal law, or by an independent external auditor, as determined by the Inspector General or, if there is no Inspector General, by the head of the corporation.

(2) Audits under this section shall be conducted in accordance with applicable generally accepted government auditing standards.

(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the head of the Government corporation, to the Chairman of the Committee on Government Operations of the House of Representatives, and to the Chairman of the Committee on Governmental Affairs of the Senate.

(4) The Comptroller General of the United States—

(A) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

(B) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the Government corporation which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General of the United States considers appropriate; and

(C) may audit a financial statement of a Government corporation at the discretion of the Comptroller General or at the request of a committee of the Congress.

An audit the Comptroller General performs under this paragraph shall be in lieu of the audit otherwise required by paragraph (1) of this subsection. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

(5) A Government corporation shall reimburse the Comptroller General of the United States for the full cost of any audit conducted by the Comptroller General under this subsection, as determined by the Comptroller General. All reimbursements received under this paragraph by the Comptroller General of the United States shall be deposited in the Treasury as miscellaneous receipts.

(b) Upon request of the Comptroller General of the United States, a Government corporation shall provide to the Comptroller General of the United States all books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Government corporation and its auditor that the Comptroller General of the United States considers necessary to the performance of any audit or review under this section.

(c) Activities of the Comptroller General of the United States under this section are in lieu of any audit of the financial transactions of a Government corporation that the Comptroller General is required to make under any other law.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1043; Pub. L. 100-86, title IV, §403, Aug. 10, 1987, 101 Stat. 609; Pub. L. 100-233, title VII, §703, Jan. 6, 1988, 101 Stat. 1706; Pub. L. 100-399, title VI, §602, Aug. 17, 1988, 102 Stat. 1006; Pub. L. 101-73, title V, §511(b)(2), Aug. 9, 1989, 103 Stat. 406; Pub. L. 101-576, title III, §305, Nov. 15, 1990, 104 Stat. 2853; Pub. L. 103-82, title II, §202(e)(2), Sept. 21, 1993, 107 Stat. 888.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9105(a)	31:850(1st sentence 1st-16th, 30th-46th words, 4th-last sentences).	Dec. 6, 1945, ch. 557, §105, 59 Stat. 599; Aug. 30, 1964, Pub. L. 88-518, §2(a), 78 Stat. 698; Jan. 2, 1975, Pub. L. 93-604, §601(a), 88 Stat. 1962.
	31:857(1st sentence 1st-26th, 39th-last words, 4th-last sentences).	Dec. 6, 1945, ch. 557, §202, 59 Stat. 600; Aug. 30, 1964, Pub. L. 88-518, §1(a), 78 Stat. 698; Jan. 2, 1975, Pub. L. 93-604, §601(c), 88 Stat. 1962.
9105(b)	31:866(a)(last proviso), (b).	Dec. 6, 1945, ch. 557, §301, 59 Stat. 601.
9105(c)	31:850(1st sentence 17th-29th words, 2d, 3d sentences). 31:857(1st sentence 27th-38th words, 2d, 3d sentences).	
9105(d)	31:850(1st sentence proviso).	
9105(e)	31:866(a)(words before 1st comma, 1st proviso), (d).	
9105(f)	31:866(c).	
9105(g)	31:866(a)(words between 1st comma and 1st proviso).	

In the section, the words “Comptroller General” are substituted for “General Accounting Office” for consistency.

In subsection (a), the words “rules and . . . of the United States” are omitted as surplus. The words “United States” are added for consistency. The text of 31:850(4th sentence) and 857(4th sentence) and the words “Effective July 1, 1974” are omitted as executed.

In subsection (b)(1), the words “pursuant to law” are omitted as surplus.

In subsection (b)(2), the words “may make a contract” are substituted for “is authorized in his discretion to employ by contract” to eliminate unnecessary words.

In subsection (c), before clause (1), the words “at the place or places” and “of the respective corporations” are omitted as surplus. The words “A Government corporation shall” are added for clarity. In clause (1), the words “make available . . . for audit all records” are substituted for “The representatives of . . . shall have access to all books, accounts, financial records, reports, files, and all other papers” for consistency and because of the restatement. The words “things, or” are omitted because they are included in “property”. In clause (2), the word “full” is omitted as surplus.

Subsection (d) is substituted for 31:850(1st sentence proviso words before 7th comma) because of the restatement.

In subsection (e), the words “The Comptroller General shall pay the cost of an audit” are substituted for “The expenses of auditing the financial transactions of wholly owned and mixed-ownership Government corporations as provided in sections 850 and 857 of this title shall be borne out of appropriations to the General Accounting Office” to eliminate unnecessary words. The words “full” and “otherwise . . . funds of any . . . be used to . . . of the offices” are omitted as surplus. The words “except the cost of such audits contracted for and undertaken prior to April 25, 1945” are omitted as executed.

Subsection (g) is substituted for 31:866(a)(words between 1st comma and 1st proviso) for clarity and consistency.

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (a)(1), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103-82 inserted “, or under other Federal law,” before “or by an independent”.

1990—Pub. L. 101-576 amended section generally. Prior to amendment, section required Comptroller General to audit financial transactions of Government corporations at least once every 3 years, the Federal Savings and Loan Insurance Corporation and Federal home loan banks each year, the Federal Asset Disposition Association and the Federal Agricultural Mortgage Corporation as necessary; suggested that Comptroller General in conducting an audit use reports of examinations of Government corporation by supervising administrative agency and authorized Comptroller General to contract for professional services; required audits to be conducted consistent with principles and procedures applicable to commercial corporate transactions; set forth responsibility for payment of audit cost, and authorized appropriations.

1989—Subsec. (a)(2). Pub. L. 101-73 struck out “Federal Savings and Loan Insurance Corporation and” after “The Comptroller General shall audit the” and inserted sentence at end requiring the Comptroller General to audit the Resolution Funding Corporation annually.

1988—Subsec. (a)(4). Pub. L. 100-399 substituted “Corporation” for “Association” in subpar. (B)(i).

Pub. L. 100-233 added par. (4).

1987—Subsec. (a)(3). Pub. L. 100-86 added par. (3).

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Operations of House of Representatives treated as referring to Committee on Government Reform and Oversight of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 202(i) of Pub. L. 103-82, set out as an Effective Date note under section 12651 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-399 effective as if enacted immediately after enactment of Pub. L. 100-233, which was approved Jan. 6, 1988, see section 1001(a) of Pub. L. 100-399, set out as a note under section 2002 of Title 12, Banks and Banking.

DEPOSIT OF FUNDS REIMBURSED TO COMPTROLLER GENERAL TO APPROPRIATION OF GOVERNMENT ACCOUNTABILITY OFFICE

Pub. L. 106-57, title II, Sept. 29, 1999, 113 Stat. 426, as amended by Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814, provided in part: “That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the Government Accountability Office then available and remain available until expended”.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-275, title II, Oct. 21, 1998, 112 Stat. 2450.

Pub. L. 105-55, title II, Oct. 7, 1997, 111 Stat. 1196.

Pub. L. 104-197, title II, Sept. 16, 1996, 110 Stat. 2411.

Pub. L. 104-53, title II, Nov. 19, 1995, 109 Stat. 534.

Pub. L. 103-283, title II, July 22, 1994, 108 Stat. 1440.

§ 9106. Management reports

(a)(1) A Government corporation shall submit an annual management report to the Congress not later than 180 days after the end of the Government corporation’s fiscal year.

(2) A management report under this subsection shall include—

(A) a statement of financial position;

(B) a statement of operations;

(C) a statement of cash flows;

(D) a reconciliation to the budget report of the Government corporation, if applicable;

(E) a statement on internal accounting and administrative control systems by the head of the management of the corporation, consistent with the requirements for agency statements on internal accounting and administrative control systems under the amendments made by the Federal Managers’ Financial Integrity Act of 1982 (Public Law 97-255);

(F) the report resulting from an audit of the financial statements of the corporation conducted under section 9105 of this title; and

(G) any other comments and information necessary to inform the Congress about the operations and financial condition of the corporation.

(b) A Government corporation shall provide the President, the Director of the Office of Management and Budget, and the Comptroller General of the United States a copy of the management report when it is submitted to Congress.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1044; Pub. L. 101-576, title III, §306(a), Nov. 15, 1990, 104 Stat. 2854.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9106(a)	31:851(1st-3d sentences).	Dec. 6, 1945, ch. 557, §106, 59 Stat. 599; Aug. 30, 1964, Pub. L. 88-518, §2(b), 78 Stat. 698; Jan. 2, 1975, Pub. L. 93-604, §601(b), 88 Stat. 1962.
	31:858(1st-3d sentences).	Dec. 6, 1945, ch. 557, §203, 59 Stat. 600; Aug. 30, 1964, Pub. L. 88-518, §1(b), 78 Stat. 698; Jan. 2, 1975, Pub. L. 93-604, §601(d), 88 Stat. 1963.
9106(b)	31:851(last sentence).	
	31:858(last sentence).	

In subsection (a), before clause (1), the words “of a Government corporation” are added for clarity. In clause (5), the words “program, expenditure, or other”, “observed in the course of the audit”, and “of law” are omitted as surplus. In clause (6), the word “statement” is substituted for “report” for consistency. The words “noted in the audit” are omitted as surplus. The word “made” is substituted for “accomplished” for consistency. In clause (7), the word “other” is added for clarity because of the restatement. The words “with respect thereto” are omitted as surplus.

In subsection (b), the words “The Comptroller General” are added for clarity.

REFERENCES IN TEXT

The Federal Managers’ Financial Integrity Act of 1982, referred to in subsec. (a)(2)(E), is Pub. L. 97-255, Sept. 8, 1982, 96 Stat. 814, which added subsec. (d) to section 66a of former Title 31, Money and Finance. Section 66a of former Title 31 was repealed by Pub. L. 97-258, §5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the first section thereof as section 3512 of this title. Provisions relating to statements on internal accounting and administrative control systems are restated in section 3512(d)(2) and (3) of this title.

AMENDMENTS

1990—Pub. L. 101-576 substituted “Management” for “Audit” in section catchline and amended text of section generally. Prior to amendment, section read as follows:

“(a) The Comptroller General shall submit to Congress a report on each audit of a Government corporation under section 9105 of this title not later than 6.5 months after the end of the last year covered by the audit. The report shall state the scope of the audit and include—

“(1) a statement (showing intercorporate relations) of assets, liabilities, capital, and surplus or deficit;

“(2) a statement of surplus or deficit analysis;

“(3) a statement of income and expenditures;

“(4) a statement of sources and the use of money;

“(5) specifically each financial transaction or undertaking the Comptroller General believes was carried out or made without authority of law;

“(6) comments and information the Comptroller General considers necessary to keep Congress informed about the operations and financial condition of the Government corporation, including a statement of impaired capital noticed and recommendations for the return of capital of the United States Government or the payment of dividends the Comptroller General believes should be made; and

“(7) other recommendations the Comptroller General considers advisable.

“(b) The Comptroller General shall give the President, the Secretary of the Treasury, and the Government corporation a copy of the report when it is submitted to Congress.”

§ 9107. Accounts

(a) With the approval of the Comptroller General, a Government corporation may consolidate its cash into an account if the cash will be expended as provided by law.

(b) The Secretary of the Treasury shall keep the accounts of a Government corporation. If the Secretary approves, a Federal reserve bank or a bank designated as a depository or fiscal agent of the United States Government may keep the accounts. The Secretary may waive the requirements of this subsection.

(c)(1) Subsection (b) of this section does not apply to maintaining a temporary account of not more than \$50,000 in one bank.

(2) Subsection (b) of this section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(3) Subsection (b) of this section does not apply to the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, or the Federal Land Banks. However, the head of each of those banks shall report each year to the Secretary the names of depositories where accounts are kept. If the Secretary considers it advisable when an annual report is received, the Secretary may make a written report to the corporation, the President, and Congress.

(Pub. L. 97-258, §§1, 2(l)(2), Sept. 13, 1982, 96 Stat. 1044, 1062; Pub. L. 97-452, §1(27), Jan. 12, 1983, 96 Stat. 2478.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9107(a)	31:870.	Aug. 24, 1949, ch. 506, §309, 63 Stat. 662.
9107(b)	31:867(1st sentence less last proviso).	Dec. 6, 1945, ch. 577, §302, 59 Stat. 601; July 26, 1956, ch. 741, §201(a)(4), 70 Stat. 667; Aug. 20, 1978, Pub. L. 95-351, §301(b), 92 Stat. 514; Aug. 13, 1981, Pub. L. 97-35, §396(h)(2), 95 Stat. 440.
9107(c)(1)	31:867(1st sentence last proviso).	
9107(c)(2)	31:868(d)(1st sentence related to 31:867).	Dec. 6, 1945, ch. 577, §303(d)(1st sentence related to §302), 59 Stat. 602.
9107(c)(3)	31:867(last sentence).	

In subsection (a), the words “After June 30, 1949” are omitted as executed. The words “Government corporation” are substituted for “corporations or agencies subject to this chapter” because of section 9101(1) of the revised title. The words “notwithstanding the provisions of any other law”, “or more . . . for banking and checking purposes”, and “including amounts appropriated, from whatever source derived” are omitted as surplus. The words “if the cash will be expended as provided by law” are substituted for 31:870(proviso) to eliminate unnecessary words.

In subsections (b) and (c), the words “banking or checking” are omitted as surplus.

In subsection (b), the words “Secretary of the Treasury” are substituted for “Treasurer of the United States” because of the source provisions restated in section 321(c) of the revised title. The words “wholly owned and mixed-ownership” and “under such conditions as he may determine” are omitted as surplus.

In subsection (c)(1), the words “establishment and” and “in any one bank” are omitted as surplus.

In subsection (c)(3), the words “head of each” are added for consistency.

1983 ACT

This amends 31:9107(c)(3) and 9108(d)(2) because the National Consumer Cooperative Bank is no longer a mixed-ownership Government corporation. Section 396(h)(2) and (3) and (i) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 440) provided that references to the Bank in sections 302 and 303(d)(2d sentence) of the Government Corporation Control Act would be deleted on the day after the Final Government Equity Redemption Date. Section 501(36) of the Act of December 23, 1981 (Pub. L. 97-101, 95 Stat. 1440), provided that the Redemption Date was December 31, 1981.

AMENDMENTS

1983—Subsec. (c)(3). Pub. L. 97-452 struck out “the National Consumer Cooperative Bank,” after “Regional Banks for Cooperatives,” which had already been struck out by Pub. L. 97-258. See 1982 Amendment note below.

1982—Subsec. (c)(3). Pub. L. 97-258, §2(l)(2), struck out “the National Consumer Cooperative Bank,” after “Regional Banks for Cooperatives,”.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment effective Sept. 13, 1982, see section 2(i) of Pub. L. 97-452, set out as a note under section 3331 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 2(l) of Pub. L. 97-258 provided that the amendment made by such section is effective Jan. 1, 1982.

§ 9108. Obligations

(a) Before a Government corporation issues obligations and offers obligations to the public, the Secretary of the Treasury shall prescribe—

- (1) the form, denomination, maturity, interest rate, and conditions to which the obligations will be subject;
- (2) the way and time the obligations are issued; and
- (3) the price for which the obligations will be sold.

(b) A Government corporation may buy or sell a direct obligation of the United States Government, or an obligation on which the principal, interest, or both, is guaranteed, of more than \$100,000 only when the Secretary approves the purchase or sale. The Secretary may waive the requirement of this subsection under conditions the Secretary may decide.

(c) The Secretary may designate an officer or employee of an agency to carry out this section if the head of the agency agrees.

(d)(1) This section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(2) Subsections (a) and (b) of this section do not apply to the Rural Telephone Bank (when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a))), the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, and the Federal Land Banks. However, the head of each of those banks shall consult with the Secretary before taking action of the kind described in subsection (a) or (b). If agreement is not reached, the Secretary may make a written report to the corporation, the President, and Congress on the reasons for the Secretary's disagreement.

(Pub. L. 97-258, §§1, 2(l)(2), Sept. 13, 1982, 96 Stat. 1045, 1062; Pub. L. 97-452, §1(27), Jan. 12, 1983, 96 Stat. 2478.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9108(a)	31:868(a).	Dec. 6, 1945, ch. 557, §303(less (d)(1st sentence related to §302)), 59 Stat. 601; July 26, 1956, ch. 741, §201(a)(4), 70 Stat. 667; May 7, 1971, Pub. L. 92-12, §5, 85 Stat. 37; Aug. 20, 1978, Pub. L. 95-351, §301(c), 92 Stat. 514; Aug. 13, 1981, Pub. L. 97-35, §396(h)(3), 95 Stat. 441.
9108(b)	31:868(b).	
9108(c)	31:868(c).	
9108(d)	31:868(d)(less 1st sentence related to 31:867).	

In subsections (a) and (b), the words “on or after December 6, 1945” are omitted as executed. The words “wholly owned or mixed-ownership” are omitted because of section 9101(1) of the revised title.

In subsection (a), before clause (1), the word “Before” is substituted for “which are” for clarity. The words “bonds, notes, debentures, and other similar” are omitted as surplus. The words “as have been” are omitted as executed. In clause (1), the words “terms and” are omitted as surplus. The restatement of the source provisions does not affect other existing laws.

In subsection (b), the word “Government” is added for consistency. The words “for its own account and in its own right and interest, at any one time aggregating” and “his approval with respect to any transaction or classes of transactions subject to the provisions of . . . for such period of time and” are omitted as surplus.

In subsection (c), the word “agency” is substituted for “Federal agency” because of section 101 of the revised title. The words “any of the functions vested in him by” and “for such purpose” are omitted as surplus.

In subsection (d)(2), the words “(when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)))” are added because of 7:943(c) and 950(a). The words “head of each” are added for consistency. The words “be required to” are omitted as surplus.

1983 ACT

This amends 31:9107(c)(3) and 9108(d)(2) because the National Consumer Cooperative Bank is no longer a mixed-ownership Government corporation. Section 396(h)(2) and (3) and (i) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35, 95 Stat. 440) provided that references to the Bank in sections 302 and 303(d)(2d sentence) of the Government Corporation Control Act would be deleted on the day after the Final Government Equity Redemption Date. Section 501(36) of the Act of December 23, 1981 (Pub. L. 97-101, 95 Stat. 1440), provided that the Redemption Date was December 31, 1981.

AMENDMENTS

1983—Subsec. (d)(2). Pub. L. 97-452 struck out “the National Consumer Cooperative Bank,” after “the Regional Banks for Cooperatives,” which had already been struck out by Pub. L. 97-258. See 1982 Amendment note below.

1982—Subsec. (d)(2). Pub. L. 97-258, §2(l)(2), struck out “the National Consumer Cooperative Bank,” after “Regional Banks for Cooperatives,”.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-452 effective Sept. 13, 1982, see section 2(i) of Pub. L. 97-452, set out as a note under section 3331 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 2(l) of Pub. L. 97-258 provided that the amendment made by such section is effective Jan. 1, 1982.

§ 9109. Exclusion of a wholly owned Government corporation from this chapter

When the President considers it practicable and in the public interest, the President shall include in the budget submitted to Congress under section 1105 of this title a recommendation that a wholly owned Government corporation be deemed to be an agency (except a corporation) under chapter 11 of this title and for fiscal matters. If Congress approves the recommendation, the corporation is deemed to be an agency (except a corporation) under chapter 11 and for fiscal matters for fiscal years beginning after the fiscal year of approval and is not subject to this chapter. The corporate entity is not affected by this section.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1045.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9109	31:852.	Dec. 6, 1945, ch. 577, §107, 59 Stat. 599.

The word "President" is substituted for "Director of the Office of Management and Budget" because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words "with the approval of the President" are omitted because of the restatement. The word "considers" is substituted for "deemed" for consistency. The words "in connection with the budget program of such corporation" are omitted as surplus. The words "submitted to Congress under section 1105 of this title" are added for clarity. The words "deemed to be" are substituted for "treated . . . as if it were" for consistency. The word "agency" is substituted for "Government agency" and "establishment" because of section 101 of the revised title and for consistency. The words "if it were", "appropriations, expenditures, receipts, accounts, and other", and "in connection with the budget program for any fiscal year" are omitted as surplus. The words "deemed to be" are substituted for "regarded as" for consistency.

§ 9110. Standards for depository institutions holding securities of a Government-sponsored corporation for customers

(a) The Secretary shall prescribe by regulation standards for the safeguarding and use of obligations that are government securities described in subparagraph (B) or (C) of section 3(a)(42) of the Securities Exchange Act of 1934. Such regulations shall apply only to a depository institution that is not a government securities broker or a government securities dealer and that holds such obligations as fiduciary, custodian, or otherwise for the account of a customer and not for its own account. Such regulations shall provide for the adequate segregation of obligations so held, including obligations which are purchased or sold subject to resale or repurchase.

(b) Violation of a regulation prescribed under subsection (a) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit

Insurance Act, section 5(d)(2) or 5(d)(3)¹ of the Home Owners' Loan Act of 1933, section 407(e) or 407(f)¹ of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration.

(c) Nothing in this section shall be construed to affect in any way the powers of such agencies under any other provision of law.

(d) The Secretary shall, prior to adopting regulations under this section, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this section, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this section.

(e) As used in this subsection—

(1) "depository institution" has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

(2) "government securities broker" has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

(3) "government securities dealer" has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

(4) "appropriate regulatory agency" has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934.

(Added Pub. L. 99-571, title II, § 201(b)(1), Oct. 28, 1986, 100 Stat. 3223; amended Pub. L. 103-272, § 4(f)(1)(AA), July 5, 1994, 108 Stat. 1363.)

REFERENCES IN TEXT

Section 3(a)(34)(G), (42)(B), (C), (43), (44) of the Securities Exchange Act of 1934, referred to in subsecs. (a) and (e)(2)-(4), is classified to section 78c(a)(34)(G), (42)(B), (C), (43), (44) of Title 15, Commerce and Trade.

Section 8(b) or 8(c) of the Federal Deposit Insurance Act, referred to in subsec. (b), is classified to section 1818(b), (c) of Title 12, Banks and Banking.

Section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, referred to in subsec. (b), is classified to section 1464(d)(2), (3) of Title 12, but was amended generally by Pub. L. 101-73, title III, § 301, Aug. 9, 1989, 103 Stat. 282, and no longer relates to issuance of orders. See section 1464(d)(1) of Title 12.

Section 407 of the National Housing Act, referred to in subsec. (b), which was classified to section 1730 of Title 12, was repealed by Pub. L. 101-73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

Section 206(e) or 206(f) of the Federal Credit Union Act, referred to in subsec. (b), is classified to section 1786(e), (f) of Title 12.

Clauses (i) through (vi) of subparagraph [section] 19(b)(1)(A) of the Federal Reserve Act, referred to in subsec. (e)(1), are classified to section 461(b)(1)(A)(i) to (vi) of Title 12.

The International Banking Act of 1978, referred to in subsec. (e)(1), is Pub. L. 95-369, Sept. 17, 1978, 92 Stat.

¹ See References in Text note below.

607, which enacted sections 347d, 611a, and 3101 to 3111 of Title 12, amended sections 72, 378, 614, 615, 618, 619, 1813, 1815, 1817, 1818, 1820, 1821, 1822, 1823, 1828, 1829b, 1831b, and 1841 of Title 12, and enacted provisions set out as notes under sections 36, 247, 601, 611a, and 3101 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 12 and Tables.

AMENDMENTS

1994—Subsec. (e)(1). Pub. L. 103-272 substituted “section” for “subparagraph”.

EFFECTIVE DATE; PROMULGATION OF REGULATIONS

Section effective 270 days after Oct. 28, 1986, except that the Secretary of the Treasury and each appropriate regulatory agency shall publish for notice and public comment within 120 days after Oct. 28, 1986, initial implementing regulations to become effective as temporary regulations 210 days after Oct. 28, 1986, and as final regulations not later than 270 days after Oct. 28, 1986, see title IV of Pub. L. 99-571, set out as a note under section 780-5 of Title 15, Commerce and Trade.

TRANSITIONAL AND SAVINGS PROVISIONS

For transitional and savings provisions of Pub. L. 99-571, see section 301 of Pub. L. 99-571, set out as a note under section 780-5 of Title 15, Commerce and Trade.

CHAPTER 93—SURETIES AND SURETY BONDS

Sec.	
9301.	Definitions.
9302.	Prohibition against surety bonds for United States Government personnel.
9303.	Use of Government obligations instead of surety bonds.
9304.	Surety corporations.
9305.	Authority and revocation of authority of surety corporations.
9306.	Surety corporations acting outside area of incorporation and place of principal office.
9307.	Civil actions and judgments against surety corporations.
9308.	Civil penalty.
9309.	Priority of sureties.

§ 9301. Definitions

In this chapter—

- (1) “person” means an individual, a trust, an estate, a partnership, and a corporation.
- (2) “Government obligation” means a public debt obligation of the United States Government and an obligation whose principal and interest is unconditionally guaranteed by the Government.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1046.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9301	6:15(10th, last sentences).	

In clause (1), the words after the semicolon are omitted as unnecessary because of the restatement.

Clause (2) is substituted for 6:15(last sentence) for consistency and to eliminate unnecessary words.

§ 9302. Prohibition against surety bonds for United States Government personnel

An agency (except a mixed-ownership Government corporation) may not require or obtain a surety bond for a member of the uniformed serv-

ices or an officer or employee of the United States Government in carrying out official duties. This section does not affect the personal financial liability of the member, officer, or employee.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1046.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9302	31:1201.	June 6, 1972, Pub. L. 92-310, § 101, 86 Stat. 201.

The words “agency (except a mixed-ownership Government corporation)” are substituted for 31:1201(c)(words before last comma) and “agency of the Federal Government” because of section 101 of the revised title and for consistency. The words “member of the uniformed services or an officer or employee of the United States Government” are substituted for “civilian employees or military personnel” for consistency with other titles of the United States Code. The words “in carrying out official duties” are substituted for “in connection with the performance of their official duties” to eliminate unnecessary words and because of the restatement. The words “to the Federal Government” are omitted as surplus. The words “member, officer, or employee” are substituted for “employees and personnel” because of the restatement.

§ 9303. Use of Government obligations instead of surety bonds

(a) If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond. The obligation shall—

- (1) be given to the official having authority to approve the surety bond;
- (2) be in an amount equal at par value to the amount of the required surety bond; and
- (3) authorize the official receiving the obligation to collect or sell the obligation if the person defaults on a required condition.

(b)(1) An official receiving a Government obligation under subsection (a) of this section may deposit it with—

- (A) the Secretary of the Treasury;
- (B) a Federal reserve bank; or
- (C) a depository designated by the Secretary.

(2) The Secretary, bank, or depository shall issue a receipt that describes the obligation deposited.

(c) Using a Government obligation instead of a surety bond for security is the same as using—

- (1) a personal or corporate surety bond;
- (2) a certified check;
- (3) a bank draft;
- (4) a post office money order; or
- (5) cash.

(d) When security is no longer required, a Government obligation given instead of a surety bond shall be returned to the person giving the obligation. If a person, supplying labor or material to a contractor defaulting under sections 3131 and 3133 of title 40, files with the United States Government the application and affidavit provided under section 3133(a) of title 40, the Government—

- (1) may return to the contractor the Government obligation given as security (or proceeds

of the Government obligation given) under sections 3131 and 3133 of title 40 only after the 90-day period for bringing a civil action under section 3133(b) of title 40; and

(2) if a civil action is brought in the 90-day period, shall hold the Government obligation or the proceeds subject to the order of the court having jurisdiction of the action.

(e) This section does not affect the—

(1) priority of a claim of the Government against a Government obligation given under this section;

(2) right or remedy of the Government for default on an obligation provided under—

(A) sections 3131 and 3133 of title 40; or

(B) this section;

(3) authority of a court over a Government obligation given as security in a civil action; and

(4) authority of an official of the Government authorized by another law to receive a Government obligation as security.

(f) To avoid frequent substitution of Government obligations, the Secretary may prescribe regulations limiting the effect of this section to a Government obligation maturing more than one year after the date the obligation is given as security.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1046; Pub. L. 107-217, §3(h)(9), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 108-178, §4(f)(2), Dec. 15, 2003, 117 Stat. 2641.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9303(a)	6:15(1st sentence).	
9303(b)	6:15(3d sentence).	
9303(c)	6:15(2d sentence).	
9303(d)	6:15(4th, 5th sentences).	
9303(e)	6:15(6th, 8th sentences).	
9303(f)	6:15(7th, 9th, 11th sentences).	

In subsection (a), before clause (1), the words “If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond” are substituted for “Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called ‘penal bond’, with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security . . . United States Liberty bonds or other bonds or notes of the United States” to eliminate unnecessary words and for consistency. The words “The obligation shall be” are added because of the restatement. Clause (3) is substituted for “together with an agreement authorizing such official to collect or sell such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond” to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words “An official receiving a Government obligation under subsection (a) of this section may deposit it with” are substituted for “The bonds or notes deposited hereunder, and such other United States bonds or notes as may be substituted therefor from time to time as such security, may be deposited with” for clarity and consistency and to eliminate unnecessary words. Clause (A) is substituted for “Treasurer of the United States” because of the source provisions restated in section 321(c)

of the revised title. In clause (C), the words “duly” and “for that purpose” are omitted as unnecessary.

Subsection (b)(2) is substituted for “which shall issue receipt therefor, describing such bonds or notes so deposited” to eliminate unnecessary words and for consistency.

In subsection (c), before clause (1), the words “Using a Government obligation instead of a surety bond for security is the same as using” are substituted for “The acceptance of such United States bonds or notes in lieu of surety or sureties required by law shall have the same force and effect as” to eliminate unnecessary words and for consistency. In clause (1), the word “personal” is substituted for “individual” for consistency.

Subsection (d) is substituted for 6:15(4th, 5th sentences) to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

In subsection (e), before clause (1), the words “This section does not” are substituted for “Nothing herein contained shall” for clarity and consistency. The words “or impair” are omitted as being covered by “affect”. Clause (1) is substituted for “the bonds or notes deposited” for clarity and consistency. In clause (2), the words “of said penal bond” are omitted because of the restatement. In clause (3), the words “civil action” are substituted for “judicial proceedings” for consistency. In clause (4), the word “official” is substituted for “administrative officer” for consistency.

In subsection (f), the words “in order” are omitted as unnecessary. The words “Government obligations” are substituted for “securities” and for “bonds and notes of the United States” for consistency. The words “the Secretary may prescribe regulations limiting” are substituted for “such rules and regulations may limit” for clarity and consistency. The words “in appropriate classes of cases” are omitted as unnecessary. The words “the obligation is given” are substituted for “of deposit of such bonds” for clarity and consistency. The text of 6:15(7th sentence) is omitted as executed. The text of 6:15(9th sentence) is omitted because of section 321 of the revised title.

AMENDMENTS

2003—Subsec. (d)(1). Pub. L. 108-178 struck out comma after “sections 3131 and 3133 of title 40”.

2002—Subsec. (d). Pub. L. 107-217, §3(h)(9)(A), in introductory provisions substituted “sections 3131 and 3133 of title 40” for “the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d)” and “section 3133(a) of title 40” for “section 3 of the Act (40 U.S.C. 270c)”.

Subsec. (d)(1). Pub. L. 107-217, §3(h)(9)(B), substituted “sections 3131 and 3133 of title 40” for “the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d)” and “section 3133(b) of title 40” for “section 2 of the Act (40 U.S.C. 270b)”.

Subsec. (e)(2)(A). Pub. L. 107-217, §3(h)(9)(C), substituted “sections 3131 and 3133 of title 40” for “the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d)”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-178 effective Aug. 21, 2002, see section 5 of Pub. L. 108-178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

§ 9304. Surety corporations

(a) When a law of the United States Government requires or permits a person to give a surety bond through a surety, the person satisfies the law if the surety bond is provided for the person by a corporation—

(1) incorporated under the laws of—

(A) the United States; or

(B) a State, the District of Columbia, or a territory or possession of the United States;

(2) that may under those laws guarantee—

(A) the fidelity of persons holding positions of trust; and

(B) bonds and undertakings in judicial proceedings; and

(3) complying with sections 9305 and 9306 of this title.

(b) Each surety bond shall be approved by the official of the Government required to approve or accept the bond. The official may not require that the surety bond be given through a guaranty corporation or through any particular guaranty corporation.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1047.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9304	6:6.	

Subsection (a) is substituted for 6:6(1st sentence) to eliminate unnecessary words and for clarity and consistency. Clause (3) is added for clarity.

In subsection (b), the words “Each surety bond” are substituted for “Such recognizance, stipulation, bond, or undertaking”, the words “official of the Government” are substituted for “head of department, court, judge, officer, board, or body executive, legislative, or judicial”, and the word “official” is substituted for “officer or person having the approval of any bond”, to eliminate unnecessary words and for clarity and consistency.

§ 9305. Authority and revocation of authority of surety corporations

(a) Before becoming a surety under section 9304 of this title, a surety corporation must file with the Secretary of the Treasury—

(1) a copy of the articles of incorporation of the corporation; and

(2) a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(b) The Secretary may authorize in writing a surety corporation to provide surety bonds under section 9304 of this title if the Secretary decides that—

(1) the articles of incorporation of the corporation authorize the corporation to do business described in section 9304(a)(2) of this title;

(2) the corporation has paid-up capital of at least \$250,000 in cash or its equivalent; and

(3) the corporation is able to carry out its contracts.

(c) A surety corporation authorized under subsection (b) of this section to provide surety bonds shall file with the Secretary each January, April, July, and October a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(d) The Secretary—

(1) shall revoke the authority of a surety corporation to do new business if the Secretary decides the corporation is insolvent or is in violation of this section or section 9304 or 9306 of this title;

(2) may investigate the solvency of a surety corporation at any time; and

(3) may require additional security from the person required to provide a surety bond if the

Secretary decides that a surety corporation no longer is sufficient security.

(e) A surety corporation providing a surety bond under section 9304 of this title may not provide any additional bond under that section if—

(1) the corporation does not pay a final judgment or order against it on the bond; and

(2) no appeal or stay of the judgment or order is pending 30 days after the judgment or order is entered.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1047.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9305(a), (b).	6:8.	
9305(c), (d).	6:9.	
9305(e)	6:11.	

In subsection (a), before clause (1), the words “Before becoming a surety under section 9304 of this title, a surety corporation must file” are substituted for “Every company, before transacting any business under sections 6 to 13 of this title, shall deposit” for consistency and as being more precise. In clause (1), the words “charter or” are omitted as being included in “articles of incorporation”.

Subsection (b) is substituted for 6:8(2d sentence) for clarity and consistency and because of the restatement.

In subsection (c), the words “A surety corporation authorized under subsection (b) of this section to provide surety bonds” are substituted for “Every such company” for clarity. The words “as is required by section 8 of this title” are omitted as unnecessary because of the restatement.

In subsection (d)(1), the word “shall” is substituted for “shall have the power, and it shall be his duty, to” to eliminate unnecessary words. The words “under sections 6 to 13 of this title” are omitted as unnecessary because of the restatement. The words “conducting its business” are omitted as surplus. In clause (3), the words “that . . . be given at any time” are omitted as surplus. The words “from the person required to provide a surety bond” are substituted for “by any principal” for clarity.

Subsection (e) is substituted for 6:11 to eliminate unnecessary words, for clarity and consistency, and because of the restatement.

§ 9306. Surety corporations acting outside area of incorporation and place of principal office

(a) A surety corporation may provide a surety bond under section 9304 of this title in a judicial district outside the State, the District of Columbia, or a territory or possession of the United States under whose laws it was incorporated and in which its principal office is located only if the corporation has a resident agent for service of process for that district. The resident agent—

(1) may be an official of the State, the District of Columbia, the territory or possession in which the court sits who is authorized or appointed under the law of the State, District, territory or possession to receive service of process on the corporation; or

(2) may be an individual who resides in the jurisdiction of the district court for the district in which a surety bond is to be provided and who is appointed by the corporation as provided in subsection (b)¹

¹ So in original. Probably should be followed by a period.

(b) If the surety corporation meets the requirement of subsection (a) by appointing an individual under subsection (a)(2), the surety corporation shall file a certified copy of the power of attorney with the clerk of the district court for the district in which a surety bond is to be given at each place the court sits. A copy of the power of attorney may be used as evidence in a civil action under section 9307 of this title.

(c)(1) If a resident agent is removed, resigns, dies, or becomes disabled, the surety corporation shall appoint another agent as described in this section.

(2) Until an appointment is made under paragraph (1) of this subsection or during an absence of an agent from the district in which the surety bond is given, service of process may be made on the clerk of the court in which a civil action against the corporation is brought. The official serving process on the clerk of the court—

(A) immediately shall mail a copy of the process to the corporation; and

(B) shall state in the official's return that the official served the process on the clerk of the court.

(3) A judgment or order of a court entered or made after service of process under this section is as valid as if the corporation were served in the judicial district of the court.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1048; Pub. L. 106-113, div. B, § 1000(a)(9) [title V, § 5007], Nov. 29, 1999, 113 Stat. 1536, 1501A-594.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9306	6:7.	

In subsection (a), before clause (1), the words “in a judicial district” are added for clarity. The word “outside” is substituted for “beyond the limits” to eliminate unnecessary words. The words “territory or possession of the United States” are substituted for “Territory” for consistency in the revised title. The word “resident” is added for consistency.

In subsection (b), the words “duly . . . and authenticated” are omitted as surplus. The words “in which a surety bond is to be given” are added for clarity and because of the restatement. The words “the court sits” are substituted for “where a term of such court is or may be held”, and the words “A copy of the power of attorney may be used as evidence in a civil action” are substituted for “which copy, or a certified copy thereof, shall be legal evidence in all controversies”, to eliminate unnecessary words and for clarity and consistency.

In subsection (c)(1), the words “a resident” are substituted for “any such” for clarity. The words “becomes disabled” are substituted for “become insane, or otherwise incapable of acting” to eliminate unnecessary words. The words “the surety corporation shall” are substituted for “it shall be the duty of such company to” to eliminate unnecessary words and for consistency. The words “in his place” are omitted as unnecessary.

In subsection (c)(2), before clause (A), the words “the district in which the surety bond is given” are substituted for “such district”, and the words “a civil action against the corporation” are substituted for “such suit”, for clarity and consistency. The words “with like effect as upon an agent appointed by the company” are omitted as unnecessary. The words “official serving” are substituted for “officer executing such” for consistency. Clause (2) is substituted for “state such fact in his return” for clarity.

In subsection (c)(3), the words “decree or” are omitted as being included in “order”. The words “and binding” are omitted as being included in “valid”. The words “as if the corporation were served in the judicial district of the court” are substituted for “on such company as if served with process in said district” for clarity and consistency.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-113, § 1000(a)(9) [title V, § 5007(1)], substituted “has a resident agent for service of process for that district. The resident agent—” and pars. (1) and (2) for “designates a person by written power of attorney to be the resident agent of the corporation for that district. The designated person—

“(1) may appear for the surety corporation;

“(2) may receive service of process for the corporation;

“(3) must reside in the jurisdiction of the district court for the district in which a surety bond is to be provided; and

“(4) must be a domiciliary of the State, the District of Columbia, territory, or possession in which the court sits.”

Subsec. (b). Pub. L. 106-113, § 1000(a)(9) [title V, § 5007(2)], substituted “If the surety corporation meets the requirement of subsection (a) by appointing an individual under subsection (a)(2), the” for “The”.

§ 9307. Civil actions and judgments against surety corporations

(a)(1) A surety corporation providing a surety bond under section 9304 of this title may be sued in a court of the United States having jurisdiction of civil actions on surety bonds in—

(A) the judicial district in which the surety bond was provided; or

(B) the district in which the principal office of the corporation is located.

(2) Under sections 9304-9308 of this title, a surety bond is deemed to be provided in the district—

(A) in which the principal office of the surety corporation is located;

(B) to which the surety bond is returnable;

(C) in which the surety bond is filed; and

(D) in which the person required to provide a surety bond resided when the bond was provided.

(b) In a proceeding against a surety corporation providing a surety bond under section 9304 of this title, the corporation may not deny its power to provide a surety bond or to assume liability.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1049.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9307(a)	6:10.	
9307(b)	6:12.	

In subsection (a)(1), before clause (A), the words “corporation providing a surety bond” are substituted for “company doing business” for consistency. The words “in respect thereof” are omitted as surplus. The words “civil actions on surety bonds” are substituted for “actions or suits upon such recognizance, stipulation, bond, or undertaking” for consistency. In clause (A), the words “the surety bond was provided” are substituted for “such recognizance, stipulation, bond, or undertaking was made or guaranteed” for consistency.

In subsection (a)(2), before clause (A), the words “a surety bond is deemed to be provided” are substituted

for “such recognizance, stipulation, bond, or undertaking shall be treated as made or guaranteed” for consistency. In clause (A), the words “principal office of the surety corporation” are substituted for “office” for clarity and consistency. In clause (D), the words “person required to provide a surety bond resided when the bond was provided” are substituted for “principal in such recognizance, stipulation, bond, or undertaking resided when it was made or guaranteed” for consistency.

Subsection (b) is substituted for 6:12 to eliminate unnecessary words and for consistency.

§ 9308. Civil penalty

A surety corporation is liable to the United States Government for a civil penalty of at least \$500 but not more than \$5,000 for violating section 9304, 9305, or 9306 of this title. A civil action under this section may be brought in a judicial district in which a civil action may be brought against the corporation under section 9307 of this title. A penalty imposed under this section does not affect the validity of a contract made by the surety corporation.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1049.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9308	6:13.	

The section is substituted for 6:13 for clarity and consistency.

§ 9309. Priority of sureties

When a person required to provide a surety bond given to the United States Government is insolvent or dies having assets insufficient to pay debts, the surety, or the executor, administrator, or assignee of the surety paying the Government the amount due under the bond—

(1) has the same priority to amounts from the assets and estate of the person as are secured for the Government; and

(2) personally may bring a civil action under the bond to recover amounts paid under the bond.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1049.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9309	31:193.	R.S. §3468.

In the section, before clause (1), the words “person required to provide a surety bond” are substituted for “principal in any bond” for clarity and consistency. The words “dies having assets insufficient to pay debts” are substituted for “whenever, such principal being deceased, his estate and effects which come to the hands of his executor, administrator, or assignee, are insufficient for the payment of his debts” to eliminate unnecessary words. The words “and, in either of such cases”, “on the bond”, and “such surety, his executor, administrator, or assignee” are omitted as unnecessary. Clause (1) is substituted for “shall have the like priority for the recovery and receipt of the moneys out of the estate and effects of such insolvent or deceased principal as is secured to the United States” to eliminate unnecessary words and for clarity. In clause (2), the words “and maintain” are omitted as surplus. The words “civil action” are substituted for “suit” for consistency. The words “in law or equity” are omitted as surplus.

CHAPTER 95—GOVERNMENT PENSION PLAN PROTECTION

<i>Sec.</i>	<i>Purpose.</i>
9501.	Definitions.
9502.	Reports about Government pension plans.
9503.	Review and recommendations.

§ 9501. Purpose

The purpose of this chapter is to protect the interests of the United States and of the participants and their beneficiaries in Government pension plans by requiring complete disclosure of the financial condition of those plans.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1050.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9501	31:68.	Sept. 12, 1950, ch. 946, 64 Stat. 832, §120; added Nov. 4, 1978, Pub. L. 95-595, §1, 92 Stat. 2541.

The words “United States” are substituted for “Nation” for clarity and consistency. The words “and certain other pension plans” are omitted as unnecessary.

§ 9502. Definitions

In this chapter—

(1) “Government pension plan”—

(A) means a pension, annuity, retirement, or similar plan (except a plan covered under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or a plan or program financed by contributions required under chapter 21 or 22 of the Internal Revenue Code of 1986 (26 U.S.C. 3101 et seq., 3201 et seq.)) established or maintained by an agency, for any of its officers or employees, regardless of the number of participants covered by the plan; and

(B) includes—

- (i) the Civil Service Retirement System.
- (ii) the Coast Guard Retirement System.
- (iii) the Commissioned Corps of the Public Health Service Retirement System.
- (iv) the Farm Credit District Retirement Plans.
- (v) the Federal Home Loan Bank Board Retirement Systems.
- (vi) the Federal Home Loan Mortgage Corporation Plan.
- (vii) the Federal Reserve Employees Retirement Plans.
- (viii) the Foreign Service Retirement and Disability System.
- (ix) judicial plans.
- (x) the Military Retirement System.
- (xi) the National Oceanic and Atmospheric Administration Retirement System.
- (xii) nonappropriated fund plans.
- (xiii) the Tennessee Valley Authority Retirement System.

(2) “plan year” means the calendar, policy, or fiscal year chosen by the Government pension plan on which the records of the plan are kept.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1050; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9502(1)	31:68c.	Sept. 12, 1950, ch. 946, 64 Stat. 832, §§123, 124; added Nov. 4, 1978, Pub. L. 95-595, §1, 92 Stat. 2542.
9502(2)	31:68d.	

In clause (1), before subclause (A), the word “Federal” is omitted as unnecessary. In subclause (A), the words “whether or not such plan is an employee pension benefit plan within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002(2)]” are omitted as surplus. The words “an agency” are substituted for “Government of the United States, or any agency or instrumentality thereof” because of section 101 of the revised title. In subclause (B), before subclause (i), the words “but is not limited to” are omitted as surplus. The text of 31:68c(b)(words before colon) is omitted as unnecessary because of the restatement.

In clause (2), 31:68d(1st sentence) is omitted as executed. The definition in 31:68d(last sentence) is made applicable to the chapter for clarity because the defined term is used in 9503(a)(1)(B) of the revised title.

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in par. (1)(A), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, as amended, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

1986—Par. (1)(A). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 9503. Reports about Government pension plans

[(a) Repealed. Pub. L. 105-362, title XV, §1501(a), Nov. 10, 1998, 112 Stat. 3294.]

(b) This chapter does not prevent a Government pension plan from using the services of an enrolled actuary employed by an agency administering the plan.

(c) The requirements of this section are satisfied with respect to the Thrift Savings Plan described under subchapter III of chapter 84 of title 5, by preparation and transmission of the report described under section 8439(b) of such title.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1050; Pub. L. 104-66, title II, §2081, Dec. 21, 1995, 109 Stat. 729; Pub. L. 105-362, title XV, §1501(a), Nov. 10, 1998, 112 Stat. 3294.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9503(a)	31:68a(a), (b).	Sept. 12, 1950, ch. 946, 64 Stat. 832, §121; added Nov. 4, 1978, Pub. L. 95-595, §1, 92 Stat. 2541.

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9503(b)	31:68a(c).	

In subsection (a), before clause (1), the words “Notwithstanding any other provision of law or any administrative determination to the contrary . . . Federal” are omitted as unnecessary. The words “and each plan described in section 68c(b) of this title” are omitted as unnecessary because of the restatement. In clause (1), before subclause (A), the words “required by such section” are omitted as unnecessary because of the restatement. In subclause (A), the word “information” is substituted for “information and data” because it is inclusive and for consistency. In clause (4), the words “and shall not supersede” are omitted as surplus. In clause (5), the words “the Comptroller General deems” are omitted as unnecessary. The words “under section 1023 of title 29” are omitted as unnecessary because of the restatement.

In subsection (b), the words “This chapter does not prevent” are substituted for “Nothing in this chapter shall preclude” for clarity. The words “or agencies” are omitted as unnecessary because of 1:1.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-362 struck out subsec. (a) which required Government pension plans to be subject to 29 U.S.C. 1023, except for officers or employees of the Central Intelligence Agency unless the President specifically approves application of the requirements of section 1023 in writing for such officers and employees.

1995—Subsec. (c). Pub. L. 104-66 added subsec. (c).

EX. ORD. NO. 12177. DELEGATION OF FUNCTIONS TO DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET AND SECRETARY OF THE TREASURY

Ex. Ord. No. 12177, Dec. 10, 1979, 44 F.R. 71805, provided:

By the authority vested in me as President of the United States of America by Section 121(a)(1) of the Budget and Accounting Procedures Act of 1950, as amended (92 Stat. 2541, Public Law 95-595, 31 U.S.C. 68a) [31 U.S.C. 9503] and Section 301 of Title 3 of the United States Code, and in order to provide consistency among the financial and actuarial statements of Federal Government pension plans, it is hereby ordered as follows:

1-101. All the functions vested in the President by Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a) [31 U.S.C. 9503], are delegated to the Director of the Office of Management and Budget. The Director may, from time to time, designate other officers or agencies of the Federal Government to perform any or all of the functions hereby delegated to the Director, subject to such instructions, limitations, and directions as the Director deems appropriate.

1-102. The head of an Executive agency responsible for the administration of any Federal Government pension plan within the meaning of Section 123(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68c) [31 U.S.C. 9502(1)], except subsections (a)(9) and (b), shall ensure that the administrators of those plans comply with the form, manner, and time of filing as required by the Director of the Office of Management and Budget.

1-103. Subject to the provisions of Section 1-101 of this Order, and in the absence of any contrary delegation or direction by the Director, the Secretary of the Treasury, with respect to the development of the form and content of the annual reports, shall perform the functions set forth in Section 121(a) of the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 68a) [31 U.S.C. 9503]. In performing this function, the Secretary shall also be responsible for consulting with the Comptroller General.

JIMMY CARTER.

§ 9504. Review and recommendations

When necessary or when requested by either House of Congress or a committee of Congress, the Comptroller General shall—

(1) review financial and actuarial statements provided under section 9503 of this title to decide whether the reporting requirements of section 9503 are adequate to carry out section 9501 of this title; and

(2) submit to Congress recommendations for legislation necessary to carry out section 9501 of this title.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1051.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9504	31:68b.	Sept. 12, 1950, ch. 946, 64 Stat. 832, §122; added Nov. 4, 1978, Pub. L. 95–595, §1, 92 Stat. 2542.

The word “When” is substituted for “If” in both places as being more precise. The word “deemed” is omitted as unnecessary because of the restatement. The words “the General Accounting Office” are omitted as unnecessary because of the restatement and because the authority to act is vested in the Comptroller General.

CHAPTER 97—MISCELLANEOUS

Sec.	
9701.	Fees and charges for Government services and things of value.
9702.	Investment of trust funds.
9703. ¹	Managerial accountability and flexibility.
9704.	Pilot projects for managerial accountability and flexibility.
9703. ¹	Department of the Treasury Forfeiture Fund.

AMENDMENTS

1993—Pub. L. 103–62, §11(b)(2), Aug. 3, 1993, 107 Stat. 295, added item 9703 relating to managerial accountability and flexibility and item 9704.

1992—Pub. L. 102–393, title VI, §638(b)(2), Oct. 6, 1992, 106 Stat. 1788, added item 9703.

§ 9701. Fees and charges for Government services and things of value

(a) It is the sense of Congress that each service or thing of value provided by an agency (except a mixed-ownership Government corporation) to a person (except a person on official business of the United States Government) is to be self-sustaining to the extent possible.

(b) The head of each agency (except a mixed-ownership Government corporation) may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies are subject to policies prescribed by the President and shall be as uniform as practicable. Each charge shall be—

- (1) fair; and
- (2) based on—
 - (A) the costs to the Government;
 - (B) the value of the service or thing to the recipient;
 - (C) public policy or interest served; and
 - (D) other relevant facts.

¹ So in original. Two sections 9703 have been enacted.

(c) This section does not affect a law of the United States—

(1) prohibiting the determination and collection of charges and the disposition of those charges; and

(2) prescribing bases for determining charges, but a charge may be redetermined under this section consistent with the prescribed bases.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1051.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9701	31:483a.	Aug. 31, 1951, ch. 376, §501, 65 Stat. 290.

In the section, the words “agency (except a mixed-ownership Government corporation)” are substituted for “Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945 [31 U.S.C. 841 et seq.]” because of section 101 of the revised title and for consistency.

In subsection (a), the words “each service or thing of value provided” are substituted for “any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued” for consistency and to eliminate unnecessary words. The words “(including groups, associations, organizations, partnerships, corporations, or businesses)” are omitted as being included in “person” under 1:1.

In subsection (b), before clause (1), the words “may prescribe regulations establishing the charge for a service or thing of value provided by the agency” are substituted for “is authorized by regulation . . . to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one” for consistency, to eliminate unnecessary words, and because of the restatement. In clause (1), the words “and equitable” are omitted as being included in “fair”. In clause (2)(A), the words “direct and indirect” are omitted as surplus. In clause (2)(B), the words “of the service or thing” are added for clarity. In clause (2)(D), the words “and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts” are omitted as unnecessary because of section 3302(a) of this title.

Subsection (c) is substituted for 31:483a(provisos) for clarity and to eliminate unnecessary words.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–393, title VI, §638(a), Oct. 6, 1992, 106 Stat. 1779, provided that: “This section [enacting section 9703 of this title and amending sections 981 and 982 of Title 18, Crimes and Criminal Procedure, section 1509 of Title 21, Food and Drugs, section 524 of Title 28, Judiciary and Judicial Procedure, and section 2003 of Title 39, Postal Service] may be cited as the ‘Treasury Forfeiture Fund Act of 1992’.”

§ 9702. Investment of trust funds

Except as required by a treaty of the United States, amounts held in trust by the United States Government (including annual interest earned on the amounts)—

- (1) shall be invested in Government obligations; and
- (2) shall earn interest at an annual rate of at least 5 percent.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 1052.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
9702	31:547a.	R.S. §3659.

The section is substituted for 31:547a for clarity and consistency in the revised title.

§ 9703.¹ Managerial accountability and flexibility

(a) Beginning with fiscal year 1999, the performance plans required under section 1115 may include proposals to waive administrative procedural requirements and controls, including specification of personnel staffing levels, limitations on compensation or remuneration, and prohibitions or restrictions on funding transfers among budget object classification 20 and subclassifications 11, 12, 31, and 32 of each annual budget submitted under section 1105, in return for specific individual or organization accountability to achieve a performance goal. In preparing and submitting the performance plan under section 1105(a)(29),² the Director of the Office of Management and Budget shall review and may approve any proposed waivers. A waiver shall take effect at the beginning of the fiscal year for which the waiver is approved.

(b) Any such proposal under subsection (a) shall describe the anticipated effects on performance resulting from greater managerial or organizational flexibility, discretion, and authority, and shall quantify the expected improvements in performance resulting from any waiver. The expected improvements shall be compared to current actual performance, and to the projected level of performance that would be achieved independent of any waiver.

(c) Any proposal waiving limitations on compensation or remuneration shall precisely express the monetary change in compensation or remuneration amounts, such as bonuses or awards, that shall result from meeting, exceeding, or failing to meet performance goals.

(d) Any proposed waiver of procedural requirements or controls imposed by an agency (other than the proposing agency or the Office of Management and Budget) may not be included in a performance plan unless it is endorsed by the agency that established the requirement, and the endorsement included in the proposing agency's performance plan.

(e) A waiver shall be in effect for one or two years as specified by the Director of the Office of Management and Budget in approving the waiver. A waiver may be renewed for a subsequent year. After a waiver has been in effect for three consecutive years, the performance plan prepared under section 1115 may propose that a waiver, other than a waiver of limitations on compensation or remuneration, be made permanent.

(f) For purposes of this section, the definitions under section 1115(f)² shall apply.

(Added Pub. L. 103-62, §5(a), Aug. 3, 1993, 107 Stat. 289.)

¹ Another section 9703 is set out after section 9704 of this title.

² See References in Text note below.

REFERENCES IN TEXT

Section 1105(a)(29), referred to in subsec. (a), was redesignated section 1105(a)(28) of this title by Pub. L. 104-287, §4(1), Oct. 11, 1996, 110 Stat. 3388.

Section 1115(f), referred to in subsec. (f), was redesignated section 1115(g) of this title by Pub. L. 107-296, title XIII, §1311(a)(2), Nov. 25, 2002, 116 Stat. 2290.

CONSTRUCTION

No provision or amendment made by Pub. L. 103-62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L. 103-62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103-62, set out as a note under section 1115 of this title.

§ 9704. Pilot projects for managerial accountability and flexibility

(a) The Director of the Office of Management and Budget shall designate not less than five agencies as pilot projects in managerial accountability and flexibility for fiscal years 1995 and 1996. Such agencies shall be selected from those designated as pilot projects under section 1118 and shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

(b) Pilot projects in the designated agencies shall include proposed waivers in accordance with section 9703¹ for one or more of the major functions and operations of the agency.

(c) The Director of the Office of Management and Budget shall include in the report to the President and to the Congress required under section 1118(c)—

(1) an assessment of the benefits, costs, and usefulness of increasing managerial and organizational flexibility, discretion, and authority in exchange for improved performance through a waiver; and

(2) an identification of any significant difficulties experienced by the pilot agencies in preparing proposed waivers.

(d) For purposes of this section the definitions under section 1115(f)¹ shall apply.

(Added Pub. L. 103-62, §6(b), Aug. 3, 1993, 107 Stat. 290.)

REFERENCES IN TEXT

Section 9703, referred to in subsec. (b), probably means the section 9703 added by section 5(a) of Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 289, which is set out preceding this section.

Section 1115(f), referred to in subsec. (d), was redesignated section 1115(g) of this title by Pub. L. 107-296, title XIII, §1311(a)(2), Nov. 25, 2002, 116 Stat. 2290.

CONSTRUCTION

No provision or amendment made by Pub. L. 103-62 to be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity, and no person not an officer or employee of the United States acting in such capacity to have standing to file any civil action in any court of the United States to enforce any provision or amendment made by Pub. L.

¹ See References in Text note below.

103-62, or to be construed as superseding any statutory requirement, see section 10 of Pub. L. 103-62, set out as a note under section 1115 of this title.

§ 9703.¹ Department of the Treasury Forfeiture Fund

(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the “Department of the Treasury Forfeiture Fund” (referred to in this section as the “Fund”). The Fund shall be available to the Secretary, without fiscal year limitation, with respect to seizures and forfeitures made pursuant to any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard for the following law enforcement purposes:

(1)(A) Payment of all proper expenses of seizure (including investigative costs incurred by a Department of the Treasury law enforcement organization leading to seizure) or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court.

(B) Payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursing any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph.

(C) Awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619).

(D) Satisfaction of—

(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate Customs officer according to law; and

(ii) subject to the discretion of the Secretary, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by a Department of the Treasury law enforcement organization. To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in State real estate law.

(E) Payment of amounts authorized by law with respect to remission and mitigation.

(F) Payment of claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure.

(G) Equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or subsection (h) of this section, and all costs related thereto.

(H) Payment for services of experts and consultants needed by a Department of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.

(I) payment² of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization;³

(J) payment² made pursuant to guidelines promulgated by the Secretary, if such payment is necessary and directly related to seizure and forfeiture program expenses for—

(i) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

(ii) training;

(iii) printing; and

(iv) contracting for services directly related to—

(I) the identification of forfeitable assets;

(II) the processing of and accounting for forfeitures; and

(III) the storage, maintenance, protection, and destruction of controlled substances.

(2) At the discretion of the Secretary—

(A) payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Department of the Treasury law enforcement organization participating in the Fund;

(B) purchases of evidence or information by—

(i) a Department of the Treasury law enforcement organization with respect to—

(I) a violation of section 1956 or 1957 of title 18 (relating to money laundering); or

(II) a law, the violation of which may subject property to forfeiture under section 981 or 982 of title 18;

(ii) the United States Customs Service with respect to drug smuggling or a violation of section 542 or 545 of title 18 (relating to fraudulent customs invoices or smuggling);

(iii) the United States Secret Service with respect to a violation of—

(I) section 1028, 1029, or 1030 or⁴ title 18;

(II) any law of the United States relating to coins, obligations, or securities of the United States or of a foreign government; or

(III) any law of the United States which the United States Secret Service

¹ Another section 9703 is set out preceding section 9704 of this title.

² So in original. Probably should be capitalized.

³ So in original. The semicolon probably should be a period.

⁴ So in original. Probably should be “of”.

is authorized to enforce relating to fraud or other criminal or unlawful activity in or against any federally insured financial institution, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation; and

(iv) the United States Customs Service or the Internal Revenue Service with respect to a violation of chapter 53 of this title (relating to the Bank Secrecy Act).

(C) payment of costs for publicizing awards available under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

(D) payment for equipment for any vessel, vehicle, or aircraft available for official use by a Department of the Treasury law enforcement organization to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

(E) the payment of claims against employees of the Customs Service settled by the Secretary under section 630 of the Tariff Act of 1930;

(F) payment for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with a Department of the Treasury law enforcement organization;

(G) reimbursement of private persons for expenses incurred by such persons in cooperating with a Department of the Treasury law enforcement organization in investigations and undercover law enforcement operations;⁵

(H) payment for training foreign law enforcement personnel with respect to seizure or forfeiture activities of the Department of the Treasury; and⁶

(b) LIMITATIONS.—

(1) Any payment made under subparagraph (D) or (E) of subsection (a)(1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

(2) Any payment made under subsection (a)(1)(G) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.

(3) The Secretary may exempt the procurement of contract services under the Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

(4) The Secretary shall assure that any equitable sharing payment made to a State or

local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (h)—

(A) has a value that bears a reasonable relationship to the degree of participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(5) Amounts transferred by the Attorney General pursuant to section 524(c)(1) of title 28, or by the Postmaster General pursuant to section 2003 of title 39, and deposited into the Fund pursuant to subsection (d), shall be available for Federal law enforcement related purposes of the Department of the Treasury law enforcement organizations.

(c) FUNDS AVAILABLE TO UNITED STATES COAST GUARD.—

(1) The Secretary shall make available to the United States Coast Guard, from funds appropriated under subsection (g)(2) in excess of \$10,000,000 for a fiscal year, an amount equal to the net proceeds in the Fund derived from seizures by the Coast Guard.

(2) Funds made available under this subsection may be used to—

(A) pay for equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

(B) pay for equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with the United States Coast Guard;

(C) pay for overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard;

(D) pay for expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

(d) DEPOSITS AND CREDITS.—

(1) With respect to fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited during fiscal year 1993, and all proceeds from forfeitures during fiscal year 1993, under any law enforced or administered by the United States Customs Service or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of the United States Customs Service

⁵ So in original. Probably should be followed by "and".

⁶ So in original. The " ; and " probably should be a period.

or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(2) With respect to fiscal years beginning after fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited after fiscal year 1993, and all proceeds from forfeitures after fiscal year 1993, under any law (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of a Department of the Treasury law enforcement organization or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(e) INVESTMENTS.—Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section may be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(f) REPORTS TO CONGRESS.—The Secretary shall transmit to the Congress, not later than February 1 of each year—

(1) a report on—

(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—

(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993; and

(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993; and

(B) the estimated total value of all such property transferred to any State or local law enforcement agency; and

(2) a report on—

(A) the balance of the Fund at the beginning of the preceding fiscal year;

(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year;

(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year;

(D) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$1,000,000 or more;

(E) the total dollar value of uncontested seizures of monetary instruments having a value of over \$100,000 which, or the proceeds

of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year;

(F) the balance of the Fund at the end of the preceding fiscal year;

(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes;

(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101-576); and

(I) an analysis of income and expenses showing the revenue received or lost—

(i) by property category (such as general property, vehicles, vessels, aircraft, cash, and real property); and

(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).

The Fund shall be subject to annual financial audits as authorized in the Chief Financial Officers Act of 1990 (Public Law 101-576).

(g) APPROPRIATIONS.—

(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes described in subsection (a)(1).

(2) There are authorized to be appropriated from the Fund to carry out the purposes set forth in subsections (a)(2) and (c) not to exceed—

(A) \$25,000,000 for fiscal year 1993; and

(B) \$50,000,000 for each fiscal year after fiscal year 1993.

(3)(A) Subject to subparagraphs (B) and (C), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Secretary shall transfer from the Fund not more than \$100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988.

(B) Transfers pursuant to subparagraph (A) shall be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a). Further, transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed \$100,000,000.

(C) The Secretary of the Treasury shall reserve an amount not to exceed \$30,000,000 from the unobligated balances remaining in the Customs Forfeiture Fund on September 30, 1992, and such amount shall be transferred to the Fund on October 1, 1992, or, if later, the date that is 15 days after the date of the enactment of this section. Such amount shall be

available for any expenses or activities authorized under this section. At the end of fiscal year⁷ 1993, 1994, 1995, and 1996, the Secretary shall reserve in the Fund an amount not to exceed \$50,000,000 of the unobligated balances in the Fund, or, if the Secretary determines that a greater amount is necessary for asset specific expenses, an amount equal to not more than 10 percent of the total obligations from the Fund in the preceding fiscal year. At the end of fiscal year 1997, and at the end of each fiscal year thereafter, the Secretary shall reserve any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under subsection (a). Unobligated balances remaining pursuant to section 4(B) of 9703(g)⁸ shall also be carried forward.

(4)(A) After reserving any amount authorized by paragraph (3)(C), any unobligated balances remaining in the Fund on September 30, 1993, shall be deposited into the general fund of the Treasury of the United States.

(B) After reserving any amount authorized by paragraph (3)(C) and after transferring any amount authorized by paragraph (3)(A), any unobligated balances remaining in the Fund on September 30, 1994, and on September 30 of each fiscal year thereafter, shall be available to the Secretary, without fiscal year limitation, for transfers pursuant to subparagraph (A)(ii)⁹ and for obligation or expenditure in connection with the law enforcement activities of any Federal agency or of a Department of the Treasury law enforcement organization.

(C) Any obligation or expenditure in excess of \$500,000 with respect to an unobligated balance described in subparagraph (B) may not be made by the Secretary unless the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of such obligation or expenditure.

(h) RETENTION OR TRANSFER OF PROPERTY.—

(1) The Secretary may, with respect to any property forfeited under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury—

(A) retain any of the property for official use; or

(B) transfer any of the property to—

(i) any other Federal agency; or

(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.

(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure of¹⁰ forfeiture of the property, if such a transfer—

(A) is one with which the Secretary of State has agreed;

(B) is authorized in an international agreement between the United States and the foreign country; and

(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).⁹

(3) Nothing in this section shall affect the authority of the Secretary under section 981 of title 18 or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

(i) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this section.

(j) CUSTOMS FORFEITURE FUND.—Notwithstanding any other provision of law—

(1) during any period when forfeited currency and proceeds from forfeitures under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard, are required to be deposited in the Fund pursuant to this section—

(A) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall instead be deposited in the Fund; and

(B) no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

(2) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the effective date of the Treasury Forfeiture Act of 1992, shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

(k) LIMITATION OF LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.

(l) AUTHORITY TO WARRANT TITLE.—Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department of the Treasury, the Secretary is authorized, at the Secretary's discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

(m) FORFEITED PROPERTY.—For purposes of this section and notwithstanding section 524(c)(11)¹¹ of title 28 or any other law—

(1) during fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by the United States Customs Service if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of the United States Customs Service or the property was maintained by the United States Customs Service; or

⁷ So in original. Probably should be "years".

⁸ So in original. Probably should be "paragraph (4)(B)".

⁹ See References in Text note below.

¹⁰ So in original. Probably should be "or".

¹¹ See References in Text note below.

(B) a civil administrative forfeiture proceeding conducted by the United States Customs Service; and

(2) after fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Department of the Treasury law enforcement organization or the property was maintained by a Department of the Treasury law enforcement organization; or

(B) a civil administrative forfeiture proceeding conducted by a Department of the Treasury law enforcement organization.

(n) TRANSFERS TO ATTORNEY GENERAL AND POSTMASTER GENERAL.—

(1) The Secretary shall transfer from the Fund to the Attorney General for deposit in the Department of Justice Assets Forfeiture Fund amounts appropriate to reflect the degree of participation of participating Federal agencies in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization. For purposes of the preceding sentence, a “participating Federal agency” is an agency that participates in the Department of Justice Assets Forfeiture Fund.

(2) The Secretary shall transfer from the Fund to the Postmaster General for deposit in the Postal Service Fund amounts appropriate to reflect the degree of participation of the United States Postal Service in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization.

(o) DEFINITIONS.—For purposes of this section—

(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATION.—The term “Department of the Treasury law enforcement organization” means the United States Customs Service, the United States Secret Service, the Tax and Trade Bureau, the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(Added Pub. L. 102-393, title VI, § 638(b)(1), Oct. 6, 1992, 106 Stat. 1779; amended Pub. L. 103-182, title VI, § 685, Dec. 8, 1993, 107 Stat. 2220; Pub. L. 103-322, title IX, § 90205(c), Sept. 13, 1994, 108 Stat. 1994; Pub. L. 103-329, title I, § 112, Sept. 30, 1994, 108 Stat. 2391; Pub. L. 104-208, div. A, title I, § 101(f) [title I, § 116], Sept. 30, 1996, 110 Stat. 3009-314, 3009-325; Pub. L. 105-61, title I, § 122(b), (c), Oct. 10, 1997, 111 Stat. 1289; Pub. L. 107-296, title XI, § 1112(n), Nov. 25, 2002, 116 Stat. 2278.)

REFERENCES IN TEXT

Sections 7301 and 7302 of the Internal Revenue Code of 1986, referred to in subsecs. (a), (d)(2)(A), (h)(1), and

(j)(1), are classified to sections 7301 and 7302, respectively, of Title 26, Internal Revenue Code. Section 5872(b)(2) of the Internal Revenue Code of 1986, referred to in subsec. (o)(1), is classified to section 5872(b)(2) of Title 26.

The Bank Secrecy Act, referred to in subsec. (a)(2)(B)(iv), is title I of Pub. L. 91-508, Oct. 26, 1970, 84 Stat. 1114, as amended, which is classified principally to chapter 21 (§ 1951 et seq.) of Title 12, Banks and Banking, and has also been the popular name of provisions reenacted as subchapter II of chapter 53 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1951 of Title 12 and Tables.

Section 630 of the Tariff Act of 1930, referred to in subsec. (a)(2)(E), is classified to section 1630 of Title 19, Customs Duties.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b)(3), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

The Chief Financial Officers Act of 1990, referred to in subsec. (f), is Pub. L. 101-576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of this title and Tables.

Section 6073 of the Anti-Drug Abuse Act of 1988, referred to in subsec. (g)(3)(A), is classified to section 1509 of Title 21, Food and Drugs.

The date of the enactment of this section, referred to in subsec. (g)(3)(C), is the date of the enactment of Pub. L. 102-393, which was approved Oct. 6, 1992.

Subparagraph (A)(ii), referred to in subsec. (g)(4)(B), means cl. (ii) of subsec. (g)(4)(A) which was repealed by Pub. L. 103-322, title IX, § 90205(c)(2)(B), Sept. 13, 1994, 108 Stat. 1995.

Section 481(h) of the Foreign Assistance Act of 1961, referred to in subsec. (h)(2)(C), was classified to section 2291(h) of Title 22, Foreign Relations and Intercourse, prior to repeal of subsec. (h) by Pub. L. 102-583, § 6(b)(2), Nov. 2, 1992, 106 Stat. 4932. Reference to section 481(h) of the Foreign Assistance Act of 1961 probably should be to section 490(a)(1) of the Act, which is classified to section 2291j(a)(1) of Title 22.

The effective date of the Treasury Forfeiture Act of 1992, referred to in subsec. (j)(2), probably means the date of enactment of the Treasury Forfeiture Fund Act of 1992, section 638 of Pub. L. 102-393, which was approved Oct. 6, 1992.

Section 524(c)(11) of title 28, referred to in subsec. (m), was redesignated section 524(c)(10) by Pub. L. 104-66, title I, § 1091(h)(2), Dec. 21, 1995, 109 Stat. 722.

AMENDMENTS

2002—Subsec. (a)(2)(B). Pub. L. 107-296, § 1112(n)(1), in cl. (iii)(III), inserted “and” at end, in cl. (iv), substituted a period for “; and” at end, and struck out cl. (v) which read as follows: “the Bureau of Alcohol, Tobacco and Firearms with respect to a violation of—

“(I) section 842(h) of title 18;

“(II) section 844(d), (e), (f), (g), (h), or (i) of title 18;

or

“(III) section 924(c) of title 18;”.

Subsec. (o). Pub. L. 107-296, § 1112(n)(2), (3), redesignated subsec. (p) as (o) and struck out former subsec. (o) which provided that provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of Customs laws, the remission or mitigation of such forfeiture, and the compromise of claims, would apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms, and that duties that were imposed upon a Customs officer or any other person with respect to the seizure and forfeiture of property under the Customs laws would be performed with respect to seizures and forfeitures of property

under this section by such officers, agents, or any other person as had been authorized or designated for that purpose by the Secretary.

Subsec. (o)(1). Pub. L. 107-296, § 1112(n)(4), substituted “Tax and Trade Bureau” for “Bureau of Alcohol, Tobacco and Firearms”.

Subsec. (p). Pub. L. 107-296, § 1112(n)(3), redesignated subsec. (p) as (o).

1997—Subsec. (g)(3)(C). Pub. L. 105-61, § 122(b), inserted at end “Unobligated balances remaining pursuant to section 4(B) of 9703(g) shall also be carried forward.”

Subsec. (g)(4)(B). Pub. L. 105-61, § 122(c), struck out “, subject to subparagraph (C),” after “shall”.

1996—Subsec. (g)(3)(C). Pub. L. 104-208 substituted “1994, 1995, and 1996” for “and at the end of each fiscal year thereafter” and inserted at end “At the end of fiscal year 1997, and at the end of each fiscal year thereafter, the Secretary shall reserve any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under subsection (a).”

1994—Subsec. (a). Pub. L. 103-329 redesignated subpars. (G) and (J) of par. (2) as (I) and (J) of par. (1), respectively, and subpars. (H) and (I) of par. (2) as (G) and (H) of par. (2), respectively.

Subsec. (g)(3)(A). Pub. L. 103-322, § 90205(c)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Subject to subparagraphs (B) and (C), in each of fiscal years 1994 and 1995, the Secretary shall transfer from the Fund not more than \$10,000,000 to the Special Forfeiture Fund, established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), for activities authorized under the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.).”

Subsec. (g)(3)(B). Pub. L. 103-322, § 90205(c)(1)(B), inserted at end “Further, transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed \$100,000,000.”

Subsec. (g)(4)(A). Pub. L. 103-322, § 90205(c)(2), struck out “(i)” after “(A)” and struck out cl. (ii) which read as follows: “Beginning in fiscal year 1994, and each fiscal year thereafter, the Secretary shall transfer to the Attorney General an amount agreed upon by the Secretary and the Attorney General (taking into account any amount transferred by the Secretary pursuant to paragraph (3)(A)). The amount transferred under this clause shall reflect the Department of the Treasury’s pro rata share of the amount required to be transferred by the Attorney General pursuant to section 524(c)(9)(B) of title 28.”

1993—Subsec. (a)(2)(E) to (J). Pub. L. 103-182, § 685(1), (2), added subpar. (E) and redesignated former subpars. (E) to (I) as (F) to (J), respectively.

Subsec. (e). Pub. L. 103-182, § 685(3), substituted “may” for “shall” before “be kept on deposit”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the Federal Law Enforcement Training Center of the Department of the Treasury to the Secretary of Homeland Security, and for treatment of related references, see sections 203(4), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

UNAVAILABLE COLLECTIONS

Section 122(a) of Pub. L. 105-61 provided that: “The Secretary of the Treasury is authorized to receive all unavailable collections transferred from the Special Forfeiture Fund established by section 26073 [6073] of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509) by the Director of the Office of Drug Control Policy as a deposit into the Treasury Forfeiture Fund (31 U.S.C. 9703(a)), to become available for obligation on October 1, 1998, as revenue available for purposes identified under 31 U.S.C. 9703(g)(4)(B).”

[§ 9704.]

CODIFICATION

Section 9704 is set out after the first section 9703.